REMARKS

The Applicant thanks the Examiner for thoroughly reviewing and considering the pending application. The Office Action dated May 8, 2006 has been received and carefully reviewed. Claims 1-3, 6-8 and 15 are currently pending. Reexamination and reconsideration are respectfully requested.

The Applicant thanks the Examiner for taking the time to speak with the Applicant's Representatives on July 11, 2006. The substance of the interview is set forth in the Remarks and constitutes a record of the interview. We discussed the rejections of record in light of the prior art. Specifically, we discussed whether U.S. Patent No. 4,412,389 to *Kruger* (hereinafter "*Kruger*") and U.S. Patent No. 5,682,684 to *Wentzlaff et al.* (hereinafter "*Wentzlaff*") teach "calculating a plurality of temperature variation rates; and determining whether there is a substantial increase in the temperature variation rate as a function of the plurality of temperature variation rates." The Examiner asserted that these limitations are inherently taught by *Wentzlaff.* The Applicant's Representatives disagreed for the reasons set forth below.

The Office Action rejected claims 1-8 and 15 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-11 of U.S. Patent No. 6,775,923 to *Do* (hereinafter "the '923 patent"). The Applicant respectfully disagrees.

To support the rejection, the Office Action asserts that "calculating a temperature variation rate" is considered a broader recitation of "determining a medium temperature time by measuring a time lapse from said drying procedure initiating step to a point where the internal temperature reaches a medium temperature between a drying initiation temperature and a maximum drying temperature; setting a drying time based on the determined medium temperature time and performing the drying procedure for the set drying time" as claimed in the '923 patent. Whether or not the Examiner's statements are true, the '923 patent fails to teach "calculating a plurality of temperature variation rates; and determining whether there is a substantial increase in the temperature variation rate as a function of the plurality of temperature variation rates." Time, rate and increase in rate are different parameters. The Applicant therefore requests that the rejection be withdrawn.

The Office Action rejected claims 1-3 and 6-8 under 35 U.S.C. § 103(a) as being unpatentable over *Kruger* in view of *Wentzlaff*.. The Applicant respectfully traverses the rejection.

As required in Chapter 2143.03 of the M.P.E.P., in order to "establish *prima facie* obviousness of the claimed invention, all the limitations must be taught or suggested by the prior art." The Applicant submits that neither *Kruger* nor *Wentzlaff* either singularly or in combination, teach or suggest each and every element recited in claims 1-3 and 6-8. In particular, claim 1 recites a laundry dryer control method which includes "calculating a plurality of temperature variation rates; and determining whether there is a substantial increase in the temperature variation rate as a function of the plurality of temperature variation rates." Neither of the references either singularly or in combination, disclose these features.

As correctly pointed out in the Office Action at page 3, *Kruger* does not disclose "calculating a plurality of temperature variation rates; and determining whether there is a substantial increase in the temperature variation rate as a function of the plurality of temperature variation rates." *Wentzlaff* is introduced because it allegedly teaches these features. However, *Wentzlaff* clearly fails to teach "calculating a plurality of temperature variation rates" as well as "determining whether there is a substantial increase in the temperature variation rate."

A rate is a ratio between two variables. In the present application, temperature variation rate is the change in temperature relative to a change in time. Determining whether there is a substantial increase in temperature variation rate involves measuring a plurality of temperature variation rate values, for example two temperature variation rate values, and determining if the later measurement is substantially greater than the earlier measurement. The process in *Wentzlaff* does not involve calculating a temperature variation rate and because it does not teach calculating a temperature variation rate, it cannot possibly teach calculating more than one temperature variation rate and determining whether there is a substantial increase in rate as a function thereof.

What *Wentzlaff* does teach is periodically measuring temperature at different locations in the dryer. *See column 11, lines 5-17.* Then using the temperature measurements in a "fuzzy logic" algorithm (not described) to calculate drying time. Temperature measurements

alone, even if taken at predetermined time intervals, do not constitute a temperature rate. Similarly, temperature measurements alone, even if taken at predetermined time intervals, do not constitute an increase (i.e., change) in rate. The Examiner, during the personal interview, agreed that measuring temperature, calculating rate and calculating an increase in rate are different. Nevertheless, he stated that calculating rate and calculating an increase in rate are inherent when temperature is measured at predetermined intervals. This is wrong.

"To establish inherency, the extrinsic evidence 'must make clear that the missing descriptive matter is ***necessarily*** present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.'" *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999). See M.P.E.P. 2112.

In the present case, the missing descriptive matter (from *Wentzlaff*) is (1) "calculating a plurality of temperature variation rates" and (2) "determining...a substantial increase in the temperature variation rate as a function of the plurality of temperature variation rates." Calculating temperature at a number of time intervals, as taught in *Wentzlaff,* does not necessarily suggest that the temperatures are then used to calculate rate by, for example, determining the difference in temperature between a first temperature and a subsequent measured temperature and then mathematically dividing the difference by a corresponding time period. Moreover, calculating temperature at a number of time intervals most certainly does not necessarily suggest using the temperature to calculate a plurality of rates and then to determine whether the rates themselves are substantially increasing.

The mere fact that *Wentzlaff* discloses the use of a computer, and that computers are capable of calculating rates does not mean that the computer of *Wentzlaff* inherently performs these functions. In fact, as previously stated, all *Wentzlaff* does disclose is that the temperatures are used by a "fuzzy logic" algorithm to determine drying time.

Should the Examiner maintain that *Wentzlaff* inherently discloses "calculating a plurality of temperature variation rates; and determining whether there is a substantial increase in the temperature variation rates as a function of the plurality of temperature variation rates" the

Applicant requests that the Examiner provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of *Wentzlaff,* as required by the M.P.E.P. 2112.

For at least the aforementioned reasons, the Applicant respectfully submits that claim 1 is patentably distinguishable over *Kruger* in view of *Wentzlaff* and requests that the rejection be withdrawn. Likewise, claims 2, 3 and 6-8, which depend from claim 1 are also patentable for at least the same reasons.

In addition, the Office Action rejected claim 15 under 35 U.S.C. § 103(a) as being unpatentable over *Kruger* in view of U.S. Patent No. 3,792,956 to *Hyldon* (hereinafter "*Hyldon*"). The Applicants respectfully traverse the rejection.

As previously discussed with reference to claim 1, the base claim from which claim 15 depends, *Kruger* fails to disclose or suggest each and every element recited therein. Likewise, *Kruger* in view of *Wentzlaff* also fails to disclose or suggest each and every element recited in claim 1. *Hyldon* fails to address the previously noted shortcomings of *Kruger* as well as *Wentzlaff.* Therefore, the Applicant submits that claim 15 is allowable over the cited references and request that the rejection be withdrawn

The application is in condition for allowance and favorable action is respectfully solicited. If for any reason the Examiner believes a conversation with the Applicant's representative would facilitate the prosecution of this application, the Examiner is encouraged to contact the undersigned attorney at (202) 496-7500. All correspondence should continue to be sent to the below-listed address.

If these papers are not considered timely filed by the Patent and Trademark Office, then a petition is hereby made under 37 C.F.R. §1.136, and any additional fees required under 37 C.F.R. §1.136 for any necessary extension of time, or any other fees required to complete the filing of this response, may be charged to Deposit Account No. 50-0911. Please credit any overpayment to deposit Account No. 50-0911. A duplicate copy of this sheet is enclosed.

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Respectfully submitted,

By _____

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